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To: House of Representative's Ways & Means Committee Tax Working Groups on Financial Services, Education and Family Benefits, Small Business/Pass Throughs, and Charitable/Exempt Organizations

Via Email: tax.reform@mail.house.gov

Introduction

Chairman Camp, Ranking Member Levin, Members of the Committee, and tax working group members, WellPoint appreciates the commitment of the Committee and the working groups towards implementing comprehensive tax reform. As Congress considers comprehensive tax reform and promoting economic growth and job creation, we encourage the Committee to support repeal of Section 9010 of the Patient Protection and Affordable Care Act (the "Act"), which imposes an annual fee on health insurance providers. This fee, or tax,¹ will have the consequence of increasing the overall cost of health insurance for millions of consumers, decrease jobs and economic growth, and exacerbate the existing unlevel playing field among health insurers. It is directly at odds with the core bipartisan purpose of tax reform and is the ultimate example of Congress picking winners and losers through the tax code.

The Act's Health Insurer Fee

Beginning in 2014, the Act imposes an annual aggregate fee (or tax) on certain health insurance providers, starting at \$8 billion in 2014, rising to specified amounts through 2018, and indexed to the rate of premium growth for years after 2018. The aggregate annual fee is apportioned to insurers based on their market share of premiums in the fully insured marketplace. Most tax exempt insurers and HMOs will be assessed based on only 50 percent of their market share whereas a select group of nonprofit insurers will be exempt entirely from the fee, the fee is non-deductible for federal income tax purposes. This means that tax-paying health plans must pay the tax and then pay federal, state and local taxes on the taxed amount. Thus for every \$1 of the fee, a tax-paying insurer will be required to collect on average \$1.54 of premium from their customers (before any other state income tax or state premium tax considerations which will increase the amount).

¹ Section 9010 of the Act labels this as a fee, not a tax. The fee is administered by the Internal Revenue Service and has the look and feel of a tax equivalent irrespective of the label in the Act. Accordingly we will call it a fee and/or tax throughout this document.

Impact of Health Insurer Fee – Increase Health Insurance Premiums

While one of the stated goals of the Act is to make health insurance coverage more affordable, the health insurer fee will have the opposite effect by increasing costs for families, small businesses and seniors. The Congressional Budget Office (CBO) has stated that this fee will be “largely passed through to consumers in the form of higher premiums.”² In addition, the Joint Committee on Taxation estimates that the health insurer fee will add \$350 to \$400 annually to family premiums in 2016.³ According to an Oliver Wyman study⁴, the health insurer fee will have the following impacts on the insurance, Medicare, and Medicaid marketplaces:

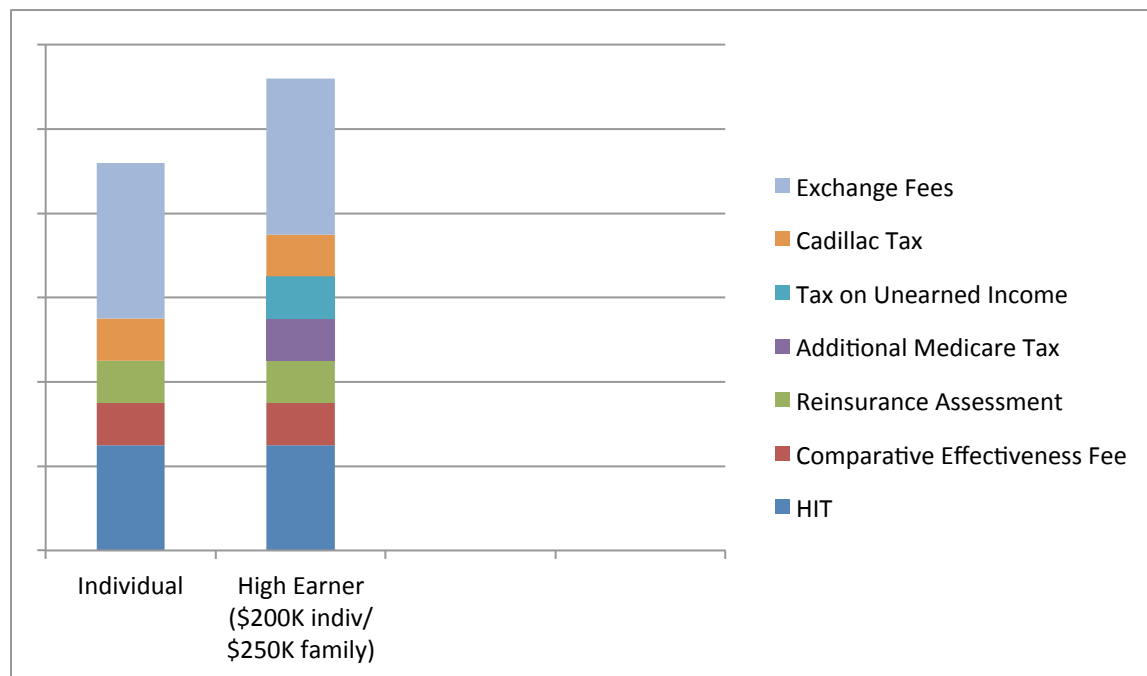
- **Impact on individual market consumers:** Increase premiums over a ten-year period for single coverage by \$1,900 under the lower-end estimate and \$2,400 under the higher-end estimate (for an average \$2,150 increase in premiums), and for family coverage would increase by \$4,500 and \$5,700 (for an average \$5,080 increase in premiums).
- **Impact on small employers:** Increase premiums over a ten-year period for single coverage by \$2,400 under the lower-end estimate and \$3,100 under the higher-end estimate (for an average \$2,760 increase in premiums), and for family coverage would increase by \$6,000 and \$7,700 (for an average \$6,830 increase in premiums).
- **Impact on large employers:** Increase premiums over a ten-year period for single coverage by \$2,300 under the lower-end estimate and \$2,900 under the higher-end estimate (for an average \$2,610 increase in premiums), and for family coverage would increase by \$6,200 and \$8,000 (for an average \$7,130 increase in premiums).
- **Impact on Medicare Advantage beneficiaries:** Increase costs \$16 to \$20 per member per month in 2014 and will increase to between \$32 and \$42 by 2023, with an average expected increase in the cost of Medicare Advantage coverage of \$3,590 over ten years.
- **Impact on Part D beneficiaries:** Increase average premiums by \$9 in 2014 and by \$20 in 2023 for a total increase of \$161 over ten years.
- **Impact on Medicaid managed care beneficiaries:** Increase the average costs of Medicaid coverage by about \$1,530 per enrollee between 2014 and 2023.

² CBO letter to Sen. Evan Bayh. “An Analysis of Health Insurance Premiums Under the PPACA.” November 30, 2009.

³ Joint Committee on Taxation Letter to Sen. Jon Kyl (R-AZ), May 16, 2011.

⁴ “Estimated Premium Impacts of Annual Fees Assessed on Health Insurance Plans,” Oliver Wyman, October, 2011, found at: <http://www.ahipcoverage.com/wp-content/uploads/2011/11/Insurer-Fees-report-final.pdf>

The following chart exhibits an estimate of all of the new PPACA taxes and fees imposed upon consumers:



For every 10 percent increase in an employee's out-of-pocket premium, approximately 1 percent of workers will drop coverage entirely.⁵ Small employers already are struggling to provide their employees with health insurance. The health insurer fee will intensify the effects of these rising cost trends, and will especially impact small firms and employees since the tax falls exclusively on the fully insured marketplace, where the majority of small businesses and the self employed purchase coverage. This tax will add an additional financial burden on families and small businesses at a time when they can least afford it.

Impact of Health Insurer Fee: Decrease Jobs and Economic Growth

The health insurer fee will damage our already fragile economy as its effects will be felt by consumers and small employers throughout the economy, thus slowing economic growth. The health insurance fee will burden small and midsize employers at a time when they can least afford it, and will significantly stifle job creation. In fact, 59% of the job losses directly associated with the fee will be borne by small businesses. According to the National Federation of Independent Business Research Foundation, the fee will impact costs for 2 million small businesses, 12 million employees and the self employed who purchase in the individual market,

⁵ www.ncbi.nlm.nih.gov/pubmed/20464953

and 26 million employees with employer coverage. The fee will result in nearly a quarter of a million private sector jobs lost nationwide by 2021, with 59 percent of those losses falling on small businesses. The fee is estimated to reduce GDP by up to \$35 billion by 2021.⁶

Impact of Health Insurer Fee: Decreased Choice for Consumers

The fee unfairly penalizes customers of taxpaying insurers as the fee falls disproportionately on them and will raise costs for these consumers. In fact, the health insurer fee exacerbates what is already an unlevel playing field due to the current tax treatment of health insurers. Under current tax law, there are three types of health insurers:

- Commercial insurance plans, which are generally subject to the full statutory rate of 35% under the insurance provisions of the Internal Revenue Code;
- Non profit (not tax-exempt) insurance plans, which in many instances are also subject to federal income tax, but typically pay at a rate lower than 35% (typically in the 20% range) if they meet specific criteria annually⁷; and
- Tax-exempt health insurance plans, which pay 0% federal income tax because the Internal Revenue Service (IRS) has administratively granted them tax-exempt status under the Internal Revenue Code. In exchange for not paying federal taxes these organizations are expected to provide a benefit to the community, essentially relieving government of that need. However, no bright line test exists to objectively determine what that community benefit is and if it is being met.⁸

As the health insurer fee is not tax deductible, it further tilts the unlevel playing field such that taxpaying insurers would need to collect \$1.54 from their customers for every \$1.00 in health insurer fee that they are assessed. Because of the unequal application of the fee, a tax-exempt insurer need only collect \$0.50. The end result is that customers of taxpaying insurers could face premium increases three times greater than customers of tax-exempt insurers.

Impact of the Health Insurer Fee: Creates an Unlevel Playing Field Between Tax-Exempt and Taxpaying Health Insurers and HMOs

In 2014, with the full implementation of major provisions of the Affordable Care Act (ACA), the rules regarding offering health insurance will change dramatically. Starting January 1, 2014, with the requirement to provide essential health benefits and actuarial value levels in products, products offered by tax-exempt and taxpaying insurers will become even more similar than they

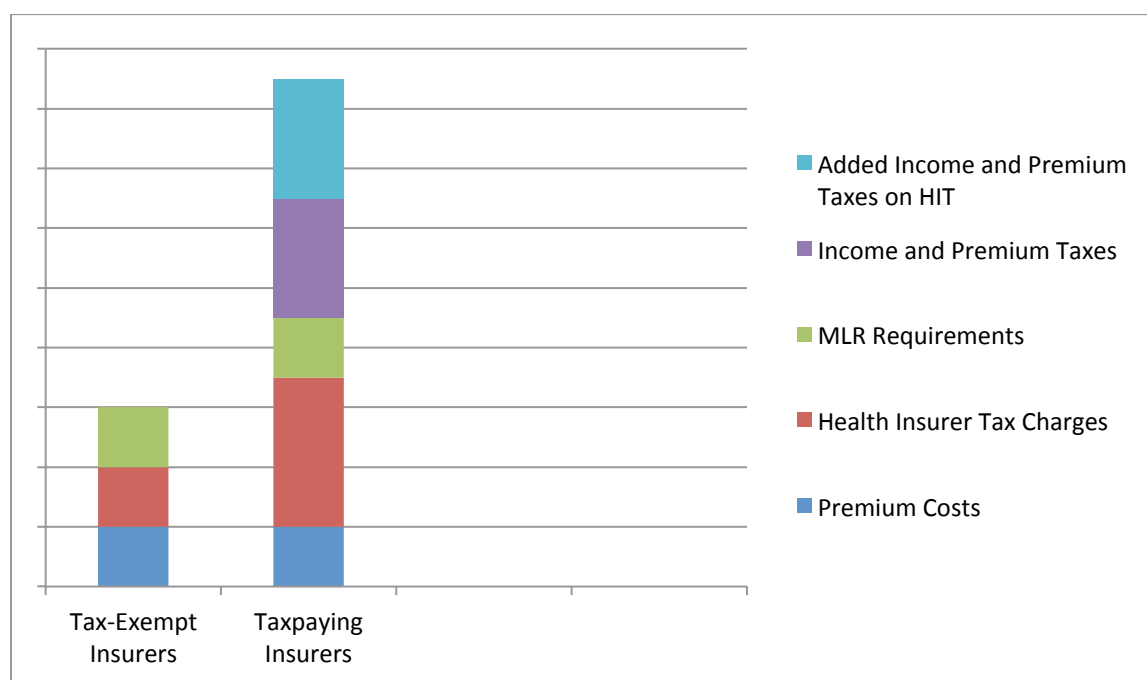
⁶ "Effects of the PPACA Health Insurance Premium Tax on Small Businesses and Their Employees," Michael J. Chow, National Federation of Independent Businesses Research Foundation, March 2013, found at: www.NFIB.com/hitstudy

⁷The specific criteria that have to be met are (a) meeting an 85% MLR standard; (b) no material change in plan structure.

⁸The community benefit standard is vague and nebulous. However, new IRS requirements imposed on tax-exempt hospitals are an attempt to start to put parameters on the standard. See proposed regulations found at: <http://www.irs.gov/pub/irs-drop/reg-130266-11.pdf>.

are now. There will be little, if anything, to distinguish the business practices of a tax-exempt insurer from that of a commercial taxpaying carrier. Thus, the question becomes what will distinguish the various types of health plans offering the coverage and what will justify tax exempt status. From a tax perspective, one consequence of the ACA is the further tilting of an already unlevel playing field between tax-exempt organizations and taxpaying organizations. One key example of this is the insurer fee. While a taxpaying insurer will be required to collect \$1.54 of premium to break even (assuming federal tax only), because of the unequal application of the tax, a tax-exempt organization need only collect \$0.50. Since both organizations will be providing the same products, a situation will exist whereby one is subject to a tax rate of 35% whereas the other pays 0%.

This graph shows the estimated impact of the new ACA charges on tax-exempt and taxpaying health insurers:



Conclusion

WellPoint appreciates the opportunity to comment on comprehensive tax reform, with a focus on the health insurance fee. We believe that tax reform that is intended to be pro-growth, pro-jobs, pro-small business and pro-healthcare coverage will be incomplete unless it includes a repeal of the misguided new health insurance fee. The health insurer fee complicates the tax administration, exacerbates what is already an unlevel playing field in the tax code, distorts the competitive marketplace, and raises rates. It is directly at odds with the core bipartisan purpose of tax reform and is the ultimate example of Congress picking winners and losers through the tax code. We look forward to working with Congress, the Committee, and the working group members as this process continues to make improvements to the code to create a tax environment that is increasingly pro-business, pro-growth, and pro-healthcare coverage.